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Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Todd Heichel, Rudy Castro, Justin
Garmendia, Joshua Holgate and Randi
Pitts, Each Individually and on Behalf of
All Others Similarly Situated,

Plaintiffs,

v.

Tri City Transport, LLC, SWWOOP,
LLC, and Michael Butler,

Defendants.

NO. 2:22-cv-1513-PHX-SMM

**DECLARATION OF ATTORNEY
JOSH SANFORD**

Pursuant to 28 U.S.C. § 1746, Josh Sanford declares, subject to the penalties for
perjury, as follows:

1. My name is Josh Sanford, and I am over the age of 18 and duly qualified
to execute this Declaration and to swear to the accuracy of the facts herein contained.

2. I am an attorney licensed and in good standing in the State of Arkansas. I
practice law with the law firm of Sanford Law Firm, PLLC (hereinafter “Sanford Law

1 Firm”), which is located in Little Rock, Arkansas, which I founded in Russellville in
2 2001. I opened an office in Little Rock in 2009 and now predominantly practice in the
3 Arkansas District Courts, together with a busy Western District of Texas practice. We
4 have had eight offices throughout the U.S., and we have had attorneys living and
5 working in five states.

6 3. I practice law full-time, and I manage the other attorneys in the Sanford
7 Law Firm. *See* “Team,” Sanford Law Firm, <https://www.sanfordlawfirm.com/team/>
8 (last viewed 14 June 2022).

9 4. Sanford Law Firm has been recognized as being the premier prosecutor of
10 wage theft violation cases in all federal courts across the United States.
11 <https://unicourt.com/blog/us-district-courts-labor-litigation-2020/> (last visited 2 July
12 2021).

13 5. In the course of my law practice, I engage in a significant amount of wage
14 and hour litigation—specifically cases arising under the Fair Labor Standards Act
15 (FLSA) and the comparable Arkansas Minimum Wage Act (AMWA). A significant
16 portion of my caseload is in various federal courts around the United States, including
17 trial work in cases arising under Title VII of the Civil Rights Act of 1964, the Equal Pay
18 Act, the FLSA, and the Family and Medical Leave Act.

19 6. I am licensed to practice law in all state and federal courts in the States of
20 Arkansas, Colorado, and Texas. I am also actively engaged in appellate practice. I have
21 handled cases before almost all county Circuit Courts in the Central and River Valley
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1 regions of Arkansas, the United States District Courts for the Eastern and Western
2 Districts of Arkansas, the United States District Courts for the Eastern, Southern,
3 Northern and Western Districts of Texas, United States District Court for the Northern
4 District of Oklahoma, United States District Court for the Southern District of Ohio, the
5 United States District Court for the District of Colorado, the United States District Court
6 for the Eastern District of Michigan, the District Court of Nebraska, the United States
7 District Court for the District of Oregon, and the Fifth, Sixth and Eighth Circuit Courts
8 of Appeals—as well as several other district courts.

9 7. There is no group of attorneys within 600 miles of Little Rock who have
10 experience comparable to Sanford Law Firm in wage litigation. Including cases
11 currently being prosecuted throughout the country today, Sanford Law Firm has
12 prosecuted over 1,300 wage cases in federal and state courts and in arbitration
13 proceedings. In 2018, only one firm in the United States initiated more wage violation
14 prosecutions than Sanford Law Firm. In 2020, as noted above, Sanford Law Firm ranked
15 first.

16 8. In 2005, I was voted “Best Attorney” (tie) in a readers’ poll published by
17 *The Courier* in Russellville, Arkansas. Subsequently, in 2008, I served as the President
18 of the Pope County Bar Association. In addition, I am or have been a member of the
19 American, Arkansas, and Pope County Bar Associations, the Arkansas Trial Lawyers
20 Association, and the National Employment Lawyers Association.

21 9. I have been lead counsel on numerous wage and hour cases filed in United
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States District Courts throughout the nation, including the following: *Craig Lyons, et al. v. Con Agra*, 4:12-cv-245-JM (E.D. Ark.) (over 790 plaintiffs); *Keyli Cruthis, et al. v. Visions, et al.*, 4:12-cv-244-KGB (E.D. Ark.); *James Finley v. Universal Pressure Pumping, Inc.*, SA:12-ca-0654-OG (Western District of Texas); *Michael Alexander v. Hahn Appliance Center, Inc.*, 12-CV-257-CVE-TWL (N.D. Okla.); *Chad Lochridge, et al. v. Lindsey Management, et al.*, 5:12-CV-5047-JLH (W.D. Ark.); *Bill Hollomon, et al. v. AT&T Mobility Services, LLC*, 4:11-cv-600-BRW (E.D. Ark.); *Jeffrey Bacon, et al. v. Eaton Aeroquip, LLC*, 2:11-cv-14103-GD (E.D. Mich.); *Karen “Kay” Roland v. Sharp County Post 336, et al.*, 1:11-CV-85-DPM (E.D. Ark.); *Bennie Watson, et al. v. Surf-Frac Wellhead Equipment Company, Inc.*, 4:11-CV-843 (JLH) (E.D. Ark.); *Robert Terry, et al. v. City of Ola*, 4:11-cv-11-645 (JLH) (E.D. Ark.); *Donald Bateman, et al. v. Frac Tech Services, LLC*, 6:11-cv-708 (E.D. Tex.); *Kalie Brown, et al. v. Barney’s Barn, Inc., d/b/a/ Peaches Gentlemen’s Club*, 4:11-cv-224 (SWW) (E.D. Ark.); *Jason Phillips v. Oil Patch Water and Sewer Services, LLC, et al.*, 4:11-cv-776 (JLH) (E.D. Ark.); *David Delock, et al. v. Securitas Security Services USA, et al.*, 4:11-CV-520 (DPM) (E.D. Ark.); *Karen Springs, et al. v. First Student, Inc.*, 4:11-CV-00240 (BSM) (E.D. Ark.); *Teramura v. Walgreen Co.*, 5:12-cv-5244-JLH (W.D. Ark.), and many others.

10. I have also been lead counsel on numerous wage and hour cases that resulted in settlements or judgments in favor of my clients including the following: *Coby Pearce v. Frac Tech Services, LLC*, No. 4:12-cv-651-JLH (E.D. Ark.); *Nicole Collins v.*

1 *Barney's Barn, Inc., et al.*, No. 4:12-cv-685-SWW (E.D. Ark.); *Joseph Gauthier, et al.*
2 *v. Trican Well Service, L.P.*, No. 6:13-cv-46-LED (E.D. Tex.); *Jason Roche, et al. v. S-*
3 *3 Pump Service, Inc.*, No. 5:15-cv-268-XR (W.D. Tex.); *Kristen Whitworth, et al. v.*
4 *French Quarter Partners, LLC*, No. 6:13-cv-6003-RTD (W.D. Ark.); *Robert Terry v.*
5 *Yell County Ark.*, No. 4:13-cv-408-SWW (E.D. Ark.); *Jessica Guinn v. D J Trucking,*
6 *No. 4:13-cv-559-KGB* (E.D. Ark.); *Maria Romero de Lopez, et al. v. Ozark Mountain*
7 *Poultry, Inc.*, No. 5:13-cv-5272-TLB (W.D. Ark.); *Sean Jordan v. Big E. Foods, Inc.*,
8 *No. 4:14-cv-205-BRW* (E.D. Ark.); *Patricia Hernandez, et al. v. Simmons Foods, Inc.*,
9 *No. 5:14-cv-5159-JLH* (W.D. Ark.); *Sean Schneider v. Habitat for Humanity*
10 *International, Inc.*, No. 5:14-cv-5230-TLB (W.D. Ark.); *Pedro Espinoza v. Car-Son*
11 *Construction, LLC*, No. 4:14-cv-467-KGB (E.D. Ark.); *Sheila Lyles v. City of Trumann,*
12 *Ark.*, No. 3:14-cv-210-DPM (E.D. Ark.); and *Kellie McCartney v. Baily and Thompson*
13 *Tax and Accounting, P.A.*, No. 4:14-cv-561-SWW (E.D. Ark.).

14 11. I have also been lead counsel on several wage and hour cases in which
15 collective actions have been granted including *Sam Adams v. United Cerebral Palsy of*
16 *Central Ark., Inc.*, No. 4:16-cv-930-JLH (E.D. Ark.); *James Harris, et al. v. Express*
17 *Courier International, Inc.*, No. 5:16-cv-5033-TLB (W.D. Ark.); and *Dustin Moore, et*
18 *al. v. Performance Pressure Pumping Services, LLC*, No. 5:15-cv-432-XR (W.D. Tex.),
19 and dozens of others.

20 12. Since January of 2015, Sanford Law Firm has filed and prosecuted over
21 1,100 distinct wage lawsuits throughout Arkansas and Texas. We have also filed cases
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1 in Ohio, Kentucky, Tennessee, North Carolina, South Carolina, Florida, Georgia,
2 Alabama, Mississippi, Louisiana, Missouri, and Illinois. Many of these lawsuits are or
3 were group or collective actions, as well as several class actions under Rule 23.

4 13. Collectively, cases filed by the Sanford Law Firm since 2009 have
5 resulted in far more than \$13,000,000.00 in settlements and judgments for wage and
6 hour violations for more than three thousand clients across the nation.

7 14. The National Association of Legal Fee Analysis (NALFA) reports, based
8 on a national survey of more than 2,000 litigators, that the average rate for plaintiffs'
9 attorneys engaged in complex litigation in 2020 was \$445.00 per hour. *See* "NALFA
10 Releases 2020 Average Hourly Rates in Litigation," NALFA,
11 <http://www.thenalfa.org/blog/nalfa-releases-2020-average-hourly-rates-in-litigation/>
12 (last visited 5 April 2021). The hourly rates requested for attorneys, in this case, all fall
13 below the NALFA average with the exception of my hourly rate, which is slightly higher
14 than the NALFA average but is consistent with my qualifications.

15 15. The rates charged by Sanford Law Firm's attorneys are reasonable. The
16 rates are reflective of the number of years each attorney has practiced, the attorneys'
17 expertise in employment issues such as the FLSA, the contingent nature of an award of
18 fees, and the rates charged by other attorneys specializing in FLSA work. The staff time
19 and hourly rate for the Sanford Law Firm are likewise reasonable and comparable.

20 16. The Sanford Law Firm's work focuses on representing workers in
21 employment matters, and its lawyers focus their practices in the area of the FLSA and
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1 similar wage-and-hour cases. In the community of attorneys who focus their practice in
2 this area of the law, the Sanford Law Firm has a strong reputation for its quality of work
3 and diligent representation of its clients.

4 17. The lawyers at the Sanford Law Firm often have opportunities for greater
5 responsibility and experience than many of their peers in the legal community with the
6 same years of experience practicing law. What I mean by this is that because of the
7 management style at the Sanford Law Firm, lesser-experienced attorneys are able to
8 independently manage their own cases with the oversight of more experienced attorneys
9 and are supported by a firm culture of collaboration and accessibility to all Sanford Law
10 Firm attorneys. Lesser-experienced attorneys with Sanford Law Firm find themselves
11 effectively navigating litigation with far more experienced opposing counsel, as well as
12 successfully taking on far more responsibility than many of their peers of equal
13 experience at other law firms.

14 18. Due to this culture of personal responsibility, conferences between
15 attorneys of differing levels of experience ensure that less experienced attorneys receive
16 the benefits of the skills and knowledge of more experienced attorneys.

17 19. Sanford Law Firm represented Plaintiff in this case on a contingency basis
18 and paid all out-of-pocket costs, including filing and service fees, copying costs, and
19 other such expenses without any assurances that fees or costs would be recovered. The
20 “contingency” fee award sought by Sanford Law Firm is not a contingency fee in the
21 traditional sense whereby an attorney takes a portion of the plaintiff’s recovery. Rather,
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1 Sanford Law Firm relies on the fee-shifting provisions of the FLSA to recover their fees
2 in this case.

3 20. Not only is there no guarantee that any fees and costs will be recovered in
4 a contingency fee case, but any recovery made will be delayed as compared to clients
5 who make up-front or monthly payments as litigation proceeds. In contingency fee
6 cases, an attorney is not paid for months or even years, depending on how long it takes
7 for litigation to conclude.

8 21. This type of work is time-consuming and rigorous, and the amount of time
9 spent by our firm at each step in this case is reasonable. It is not uncommon in the course
10 of my practice for clients with similar cases to incur attorney's fees that are as much as
11 or more than those in this case.

12 22. With these matters in mind, I reviewed the hourly rates for the attorneys
13 and staff that the Sanford Law Firm is seeking in this case.

14 23. Based on my experience and knowledge, it is my opinion that these hourly
15 rates are reasonable given the attorneys' skills, expertise, and reputations, and they are
16 within the range of rates awarded to attorneys with similar backgrounds and experience.

17 24. The request for attorney's fees and costs is based upon contemporaneous
18 time and expense records maintained by Sanford Law Firm as a matter of ordinary and
19 customary business practice. The time and billing records identify the amount of time
20 expended, the tasks performed, the rate of the particular timekeeper involved, and the
21 costs incurred. A true and accurate copy of a spreadsheet reflecting relevant legal
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1 services rendered and time expended on this case through September 5, 2024, is attached
2 to Plaintiffs' Motion for Default Judgment as Exhibit 11 (hereinafter "Billing
3 Spreadsheet").

4 25. Each task reflected in the attached Billing Spreadsheet was necessary to
5 the successful resolution of this matter; the hours expended were actually expended on
6 the topics stated; the time spent on each task was reasonable; and the rates claimed are
7 also reasonable.

8 26. Conferences between the attorneys of the Sanford Law Firm, as well as
9 between attorneys and staff of the Sanford Law Firm, are critical to the success of cases
10 like this one because they improve the efficiency and quality of attorney work. Tasks
11 can be delegated to Sanford Law Firm attorneys who are more experienced in certain
12 types of projects or topics to increase the speed, accuracy or quality for accomplishing
13 the task, or to attorneys whose hourly rates are lower to keep costs down, especially
14 where the speed at which a task can be accomplished will be largely the same regardless
15 of who performs the task. In the case of collective actions, in-house conferences allow
16 attorneys to share the load of multi-plaintiff litigation.

17 27. Attorney conferences also increase efficiency because they allow
18 attorneys to share their specific legal knowledge of particular topics, thereby preventing
19 an attorney who is working on a project from having to spend time doing the research,
20 creating a new legal form, or otherwise "re-inventing the wheel." In this way, even less
21 experienced attorneys are able to work more efficiently and with greater quality than
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1 other attorneys of comparable experience. In fact, this “communal” knowledge benefits
2 even more experienced attorneys who may be assisted by a less experienced attorney
3 who simply has a particular skill set or knowledge of a topic that can be quickly shared
4 through communication.

5 28. Because of Sanford Law Firm’s collective knowledge of and experience
6 in FLSA work and use of attorney collaboration, Plaintiff’s counsel was able to complete
7 tasks efficiently, which served to keep billing lower than it would have been without
8 that knowledge, experience, and collaboration.

9 29. Attorney-client communication is also critical to the success of Sanford
10 Law Firm cases. First, all communication from clients is important. In my experience,
11 when a client feels he or she is being ignored by attorneys, that reduces the level of trust
12 between the client and the attorney, which damages the attorney-client relationship.
13 This, in turn, makes quality representation of the client extremely difficult and reduces
14 efficiency. Further, attorneys must trust that their clients are reliable and accessible.
15 Approaching deadlines, settlement conferences, and other issues in a case often demand
16 immediate client response, so a healthy attorney-client relationship is a necessary part
17 of the litigation process.

18 30. In order to protect the attorney-client relationship and privilege, entries in
19 the Billing Spreadsheet that reveal the substance of conversations with clients or are
20 otherwise privileged have the substantive portions removed and replaced with the phrase
21 “PRIVILEGED INFORMATION.” However, the replaced language has been preserved
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1 and can be produced for in-camera review if this Court believes that such a review is
2 necessary in order to award fees related to these entries.

3 31. One of Sanford Law Firm's strengths is its array of attorneys with
4 specialized knowledge or particular areas of expertise that can participate in cases where
5 their unique skill sets are appropriately utilized. Not every attorney has to know
6 everything about the FLSA, damages calculations, negotiation strategy, settlement
7 agreements, or other aspects of litigation because every Sanford Law Firm attorney has
8 access to all of the other Sanford Law Firm attorneys and their collective knowledge.
9 This saves time because individual attorneys can gain knowledge through brief
10 conversations with other attorneys rather than through time-consuming legal research
11 on an issue. Even where legal research is required, the focus of that research can often
12 be narrowed through consultation with other attorneys.

13 32. Where appropriate, Sanford Law Firm attorneys also delegate work to
14 paralegals, law clerks and staff. The hourly rates charged for Sanford Law Firm's
15 paralegals, law clerks and staff are reasonable. *See e.g., Haywood v. Wexford Health*
16 *Sources, Inc.*, No. 16 CV 3566, 2021 U.S. Dist. LEXIS 104363, at *40 (N.D. Ill. June
17 3, 2021) ("Finally, the Court finds that \$125 per hour is a reasonable rate for paralegal
18 work in this District."). The work performed by support staff members, in this case, was
19 necessary to the litigation and the time spent on those tasks was reasonable.

20 33. The total overall billing reflected in the Billing Spreadsheet is \$18,740.75.

21 34. In addition, court costs and recoverable expenses were also incurred in this
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1 matter. These costs, totaling \$1,312.35, are included in the Costs Invoice is attached to
2 Plaintiffs' Motion for Default Judgment as Exhibit 12. The costs and expenses detailed
3 in the Invoice that have been advanced by the Sanford Law Firm on behalf of Plaintiff, and
4 which Plaintiff is contractually obligated to reimburse Sanford Law Firm out of any
5 recovery in this case.

6 35. The amount of the costs requested is correct. The costs stated were
7 necessarily incurred during the case, the services giving rise to the costs were actually
8 and necessarily performed.

9 36. In sum, the total amount of fees and costs requested is \$20,053.10

10 **PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF**
11 **PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA**
12 **THAT THE FOREGOING IS TRUE AND CORRECT.**

Executed on this 6th day September 2024.

13 /s/ Josh Sanford
14 **JOSH SANFORD**
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